

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

CESAR ALTIERI SAYOC,

Defendant.

18-cr-820 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

The Court has received an undated pro se letter, to be docketed, from Cesar Sayoc requesting a reduction in his prison sentence. The Court construes this to be a motion pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). This statute permits a court to “reduce . . . a defendant’s prison sentence,” as Sayoc requests. United States v. Brooker, 976 F.3d 228, 237 (2d Cir. 2020). However, under the statute, a defendant may only bring such a motion “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” 18 U.S.C. § 3582(c)(1)(A)(i).

Although this Court has held that the 30-day waiting period is waivable under certain circumstance, it has also held that “the more modest requirement that a defendant first file a request with the BOP before a court can address the motion on the merits” cannot similarly be excused. United States v. Massa, 2021 WL 4847424, at

\*2 (S.D.N.Y. Oct. 18, 2021). Accordingly, because Sayoc has not indicated that he has made such a request in writing with the Warden of his facility, the present motion is denied without prejudice.

SO ORDERED.

Dated: New York, NY

November 18, 2021

A handwritten signature in black ink, appearing to read "Jed S. Rakoff", is written over a horizontal line.

JED S. RAKOFF, U.S.D.J.